



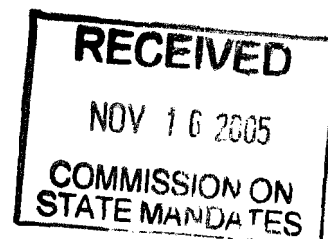
**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
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J. TYLER MCCAULEY
AUDITOR-CONTROLLER

November 16, 2005

Ms. Paula Higashi, Executive Director
Commission on State Mandates
900 Ninth Street, Suite 300
Sacramento, California 95814



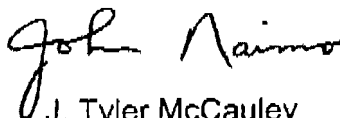
Dear Ms. Higashi:

**Los Angeles County's Reconsideration
Peace Officers Procedural Bill of Right's [POBRs] Decision
Government Code Section 3313, as added by Statutes 2005, Chapter 72**

We herein submit our reconsideration of Commission's November 30, 1999 POBR's decision, finding a reimbursable State mandated program imposed under the subject law.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

 FOR
J. Tyler McCauley
Auditor-Controller

JTM:CY:LK

Los Angeles County's Reconsideration
Peace Officers Procedural Bill of Right's Decision
Government Code Section 3313, as added by Statutes 2005, Chapter 72

Government Code Section 3313, as added by the Statutes of 2005, Chapter 72 [AB 138], effective July 19, 2005, requires the Commission on State Mandates [Commission] to reconsider its final funding decision on the Peace Officers Procedural Bill of Right's [POBR] program, adopted on November 30, 1999. Specifically, Section 3313 requires that:

“In the 2005-06 fiscal year, the Commission on State Mandates shall review its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim and make any modifications necessary to this decision to clarify whether the subject legislation imposed a mandate consistent with the California Supreme Court Decision in San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859 and other applicable court decisions. If the Commission on State Mandates revises its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim, the revised decision shall apply to local government Peace Officer Procedural Bill of Rights activities occurring after the date the revised decision is adopted.”

In accordance with this legislative directive, the Commission issued a “Notice of Reconsideration, Comment Period and Hearing Schedule” on October 19, 2005, inviting “simultaneous opening briefs and rebuttal comments” as follows:

- “ In light of the California Supreme Court decision in San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859 and other applicable court decisions, is there a new program, or higher level of service imposed on local governments within the meaning of section 6, article XIII B of the California Constitution, and if so, are these costs mandated by the state pursuant to government code section 17514 and Government Code section 17556?
- Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, what is the source? “

The County of Los Angeles [County] finds that reimbursement for the POBR's program is still required.

Background

The Commission in their [November 30, 1999] Statement of Decision on the Peace Officers Procedural Bill of Right's program addressed the 'test claim' filed by the City of Sacramento on December 21, 1995. The city alleged that various provisions of Government Code Sections 3300 through 3310, as added and amended by Statutes of 1976, Chapter 465; Statutes of 1978, Chapters 775, 1173, 1174, and 1178; Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982, Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; and Statutes of 1990, Chapter 675, herein after referred to as the test claim legislation.

In 1976, the Legislature enacted Government Code sections 3300 through 3310, in order to provide a new series of rights and procedural safeguards to peace officers employed by local agencies and school districts that are subject to investigation or discipline. This legislative intent is plainly found in Government Code section 3301:

"The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, within the State of California."

The Commission analyzed the test claim legislation and found all the required elements of a reimbursable state mandated program to be present. Specifically, the Commission stated on pages 3-4 of its Statement of Decision that:

"For a statute to impose a reimbursable state mandated program, the statutory language must direct or obligate an activity or task upon local governmental agencies. In addition, the required activity or task must be new, thus constituting a "new program", or create an increased or "higher level of service" over the former required level of service. The court has defined a "new program" or "higher level of service" as a program that carries out the governmental function

of providing services to the public, or a law which, to implement a state policy, imposes unique requirements on local agencies and does not apply generally to all residents and entities in the state. To determine if a required activity is new or imposes a higher level of service, a comparison must be made between the test claim legislation and the legal requirements in effect immediately prior to the enactment of the test claim legislation. Finally, the newly required activity or increased level of service must be state mandated and impose "costs mandated by the state."¹

The test claim legislation requires local agencies and school districts to take specified procedural steps when investigating or disciplining a peace officer employee. The stated purpose of the test claim legislation is to promote stable relations between peace officers and their employers and to ensure the effectiveness of law enforcement services. Based on the legislative intent, the Commission found that the test claim legislation carries out the governmental function of providing a service to the public. Moreover, the test claim legislation imposes unique requirements on local agencies and school districts that do not apply generally to all residents and entities of the state. Thus, the Commission determined that the test claim legislation constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution."

The question to be addressed here is whether San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859 now requires that the Commission's POBR's decision be overturned. The County believes not. Indeed, San Diego requires that Commission's 1999 POBR's reimbursement decision should be expanded.

San Diego

In San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859, the California Supreme Court examined the necessary conditions for finding a reimbursable State mandated program within the meaning of article XIII B, section 6 of the California Constitution. Such

¹ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 66; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835; Gov. Code, § 17514.

reimbursement is required if the test claim legislation imposes a new State Mandated government program, not funded or required under federal law. Federal Law is not Implicated

POBR's implements State law, not federal law, and thus qualifies for reimbursement. In order for federal law to be implicated it must be explicitly identified. As explained by the Court in San Diego, on page 873:

“ Accordingly, it appears that despite the Department's late discovery of 20 United States Code section 7151, at the time relevant here (regarding legislation in effect through mid-1994), neither 20 United States Code section 7151, nor either of its predecessors, compelled states to enact a law such as Education Code section 48915's mandatory expulsion provision. Therefore, we reject the Department's assertion that, during the time period at issue in this case, Education Code section 48915's mandatory expulsion provision constituted an implementation of a federal, rather than a state, mandate.”

Also, POBR's is not subject to federal law as a condition of receiving federal funding as no federal funds are available for POBR's activities². Where federal funding is not present, the San Diego Court noted, on pages 872-873, that federal law is not implicated:

“The Department further asserts that more than \$2.8 billion in federal funds under the No Child Left Behind Act are included "for local use" in the 2003-04 state budget. (Cal. State Budget, 2003-04, Budget Highlights, p. 4.) The Department argues that in light of the requirements set forth in 20 United States Code section 7151, and the amount of federal program funds at issue under the No Child Left Behind Act, the financial consequences to the state and to the school districts of failing to comply with 20 United States Code section 7151 are such that as a practical matter, *883Education Code section 48915's mandatory expulsion provision in reality constitutes an implementation of federal law, and hence resulting costs are nonreimbursable except to the extent they exceed the requirements of federal law. (See Govt.Code, § 17556, subd. (c);

² See attached declaration of Glen Dragovich, Assistant Division Director for Administrative Services, Los Angeles County Sheriff's Department regarding available POBR's funding.

see also Kern High School Dist., supra, 30 Cal.4th 727, 749-751, 134 Cal.Rptr.2d 237, 68 P.3d 1203; City of Sacramento, supra, 50 Cal.3d 51, 70-76, 266 Cal.Rptr. 139, 785 P.2d 522.) Moreover, the Department asserts, to the extent school districts are ***482 compelled by federal law, through Education Code section 48915's mandatory expulsion provision, to hold hearings pursuant to section 48918 in cases of firearm possession on school grounds, under 20 United States Code section 7164 (defining prohibited uses of program funds), *all* costs of such hearings properly may be paid out of federal program funds, and hence we should "view the ... provision of program funding as satisfying, in advance, any reimbursement requirement." (Kern High School Dist., supra, 30 Cal.4th 727, 747, 134 Cal.Rptr.2d 237, 68 P.3d 1203.)

****603** Although the Department asserts that this federal law and program existed at the time relevant in this matter (that is, through mid-1994), our review of the statutes and relevant history suggests otherwise. - - - Therefore, we reject the Department's assertion that, during the time period at issue in this case, Education Code section 48915's mandatory expulsion provision constituted an implementation of a federal, rather than a state, mandate."

Also, assuming arguendo, that POBRs is a mandatory program, the federal funding disclaimer under Government Code section 17556(c) is not "triggered" where no State compliance with a "general federal mandate" is required. As explained by the San Diego Court, on pages 871-872:

" ***480 ***881** We agree with the District and the Court of Appeal below that, as applied to the present case, it cannot be said that Education Code section 48915's mandatory expulsion provision "*implemented a federal law or regulation.*" (Italics added.) Education Code section 48915, at the time relevant here, did not implement any federal law; as explained below, federal law did not *then* mandate an expulsion recommendation--or expulsion--for firearm possession. [FN14] Moreover, although the Department argues that in this context Government Code section 17556, subdivision (c)'s phrase "the statute" should be viewed as referring not to Education Code section 48915's mandatory expulsion recommendation requirement, but instead to the mandatory due process hearing under Education Code section 48918 that is

triggered by such an expulsion recommendation, it still cannot be said that section 48918 itself required the District to incur any costs. As noted above, Education Code section 48918 sets out requirements for expulsion hearings that must be held when a district seeks to expel a student--but neither section 48918 nor federal law requires that any such expulsion recommendation be made in the first place, and hence section 48918 does not implement any federal mandate that school districts hold such hearings and incur such costs whenever a student is found in possession of a firearm. Accordingly, we conclude that the so-called exception to reimbursement described in Government Code section 17556, subdivision (c), is inapplicable in this context.”
[Emphasis added.]

Therefore, the San Diego Court provides an answer to Commission’s question of whether Government Code Section 17556, including the federal mandate funding disclaimer found in Section 17556(c)³ will bar

3. Section 17556 provides that: “The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.”

reimbursement. Clearly, the federal disclaimer "is inapplicable in this context".

"Full Reimbursement" is Required

The San Diego Court found that "full reimbursement" of all of the costs of mandatory procedural duties, not "triggered by federal law", is required under section 6, article XIII B of the California Constitution. Here, the Supreme Court concluded:

"The judgment of the Court of Appeal is affirmed insofar as it provides for full reimbursement of all costs related to hearings triggered by the mandatory expulsion provision of Education Code section 48915. " [Emphasis added.]

Hence, under the San Diego holding, the Commission is required to rewrite its November 30, 1999 decision --- expanding it to include "full reimbursement" for all costs necessary to implement the duties encompassed by the POBR's program, not just the costs of "various incidental procedural protections", as noted in San Diego on page 877.

POBRs is Mandated

POBRs is a mandatory program, not merely a suggestion. As noted in the declaration of Captain Karen Mannis, of the Internal Affairs Bureau of the Los Angeles County Sheriff's Department, attached, "... investigating peace officer misconduct is a required, necessary and essential duty". In this regard, the California Supreme Court in Pasadena Police Officers Association et al., v. City of Pasadena et al, (51 Cal.3d 564, *567) held that:

"To keep the peace and enforce the law, a police department needs the confidence and cooperation of the community it serves. Even if not criminal in nature, acts of a police officer that tend to impair the public's trust in its police department can be harmful to the department's efficiency and morale. Thus, when allegations of officer misconduct are raised, it is essential that the department conduct a prompt, thorough, and fair investigation. Nothing can more swiftly destroy the

community's confidence in its police force than its perception that concerns raised about an officer's honesty or integrity will go unheeded or will lead only to a superficial investigation. [Emphasis added.]

Also, Captain Mannis indicates that investigating peace officer misconduct is a required, not an optional, duty when a complaint has been filed pursuant to Penal Code Section 832.5(a)(1):

“(a)(1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public.” [Emphasis added.]

Even assuming for the sake of argument that there is some small amount of judgment or discretion as to the particular cases of police misconduct to formally initiate or not, the San Diego Court indicated, on page 876, that this judgmental element did not invalidate the mandatory classification of the resulting activities:

****606** Upon reflection, we agree with the District and amici curiae that there is reason to question an extension of the holding of City of Merced so as to preclude reimbursement *****486** under ***888**article XIII B, section 6 of the state Constitution and Government Code section 17514, whenever an entity makes an initial discretionary decision that in turn triggers mandated costs. Indeed, it would appear that under a strict application of the language in City of Merced, public entities would be denied reimbursement for state-mandated costs in apparent contravention of the intent underlying article XIII B, section 6 of the state Constitution and Government Code section 17514 [FN23] and contrary to past decisions in which it has been established that reimbursement was in fact proper. For example, as explained above, in Carmel Valley, supra, 190 Cal.App.3d 521, 234 Cal.Rptr. 795, an executive order requiring that county firefighters be provided with protective clothing and safety equipment was found to create a reimbursable state mandate for the added costs of such clothing and equipment. (*Id.*, at pp. 537-538, 234 Cal.Rptr. 795.) The court in Carmel Valley apparently did not contemplate that

reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ--and hence, in that sense, could control or perhaps even avoid the extra costs to which it would be subjected. Yet, under a strict application of the rule gleaned from City of Merced, supra, 153 Cal.App.3d 777, 200 Cal.Rptr. 642, such costs would not be reimbursable for the simple reason that the local agency's decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc. We find it doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result, and hence we are reluctant to endorse, in this case, an application of the rule of City of Merced that might lead to such a result."

As in the Carmel Valley case, new minimum standards for POBRs are mandated even though there is some discretion as to how those standards are to be implemented. But such minimum standards must be implemented as plainly stated in Government Code Section 3310:

"Any public agency which has adopted, through action of its governing body or its official designee, any procedure which at a minimum provides to peace officers the same rights or protections as provided pursuant to this chapter shall not be subject to this chapter with regard to such a procedure." [Emphasis added.]

Accordingly, POBRs is a mandatory program ... a program where it is necessary to investigate in order to interrogate. In this regard, Commission's finding, on page 13, of its November 30, 1999 Statement of Decision remains undisturbed:

"Conducting the investigation when the peace officer is on duty, and compensating the peace officer for off-duty time in accordance with regular department procedures are new requirements not previously imposed on local agencies and school districts.

Accordingly, the Commission found that Government Code section 3303, subdivision (a), constitutes a new program or higher level of service under article XIII B, section 6 of the California Constitution and imposes

“costs mandated by the state” under Government Code section 17514.” [Emphasis added.]

Further, the parameters and guidelines for the POBR’s program, on pages 6-7, provide that reimbursable activities also include:

“...review of circumstances or documentation leading to adverse comment by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification of rights regarding same; review of response to adverse comment, attaching same to adverse comment and filing.”

Accordingly, in light of the California Supreme Court decision in San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859 and other applicable court decisions, POBRs imposes a new program, or higher level of service on local governments within the meaning of section 6, article XIII B of the California Constitution, and so requires reimbursement of costs mandated by the state pursuant to Government Code section 17514 and Government Code section 17556.

Reimbursement Rules

The County proposes that after this matter is decided by the Commission that a “reasonable reimbursement methodology” be developed. As stated in the declaration of Glen Dragovich, attached:

“... claimants as well as the State Controller’s Office could save considerable administrative POBAR’s claiming costs by using a “reasonable reimbursement methodology”, as permitted under Government Code Section 17518.5:

(a) “Reasonable reimbursement methodology” means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:

(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.

(2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully

offset their projected costs to implement the mandate in a cost-efficient manner.

(b) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

(c) A reasonable reimbursement methodology may be developed by any of the following:

- (1) The Department of Finance.
- (2) The Controller.
- (3) An affected state agency.
- (4) A claimant.
- (5) An interested party."

Finally, it should be noted that POBR's costs can be derived under an appropriate "reasonable reimbursement methodology" which takes into consideration differences in law enforcement agencies.

DECLARATION OF CAPTAIN KARYN MANNIS

Los Angeles County Comments

Peace Officers Procedural Bill of Rights

Reconsideration Case No. 05-RL-4499-01

I, CAPTAIN KARYN MANNIS, do hereby declare and states as follows:

1. I am a Captain of the Internal Affairs Bureau of the Los Angeles County [County] Sheriff's Department and I am responsible for implementing the County's Peace Officers Procedural Bill of Rights [POBOR's] program.

2. I declare that I have reviewed the Commission on State Mandates [Commission] Parameters and Guidelines regarding the POBOR's program.

3. I declare that it is my information or belief that the provision of POBOR procedures is mandatory when investigating peace officer misconduct.

4. I declare that it is my information or belief that investigating peace officer misconduct is a required, not an optional, duty.

5. I declare that it is my information or belief that investigating peace officer misconduct is a required, not an optional, duty when a complaint has been filed pursuant to Penal Code Section 832.5(a)(1):

(a)(1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public. [Emphasis added.]

DECLARATION OF CAPTAIN KARYN MANNIS

1 6. I declare that it is my information or belief that investigating peace officer misconduct
2 is a required, necessary and essential duty as noted by the California Supreme Court in Pasadena
3 Police Officers Association et al., v. City of Pasadena et al, (51 Cal.3d 564, *567):

4 “To keep the peace and enforce the law, a police department needs the confidence and
5 cooperation of the community it serves. Even if not criminal in nature, acts of a
6 police officer that tend to impair the public's trust in its police department can be
7 harmful to the department's efficiency and morale. Thus, when allegations of officer
8 misconduct are raised, it is essential that the department conduct a prompt, thorough,
9 and fair investigation. Nothing can more swiftly destroy the community's confidence
10 in its police force than its perception that concerns raised about an officer's honesty or
11 integrity will go unheeded or will lead only to a superficial investigation. [Emphasis
12 added.]

13 7. I declare that it is my information and belief that reimbursable costs under the POBOR's
14 program are well in excess of \$1,000 per annum for the County of Los Angeles, the minimum cost
15 that must be incurred to file a claim in accordance with Government Code Section 17564(a).

16 8. Specifically, I declare that I am informed and believe that the County's State mandated
17 duties and resulting costs in implementing the POBOR's program require the County to provide new
18 State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs
19 mandated by the State", as defined in Government Code section 17514:

20 "Costs mandated by the State' means any increased costs which a local agency or
21 school district is required to incur after July 1, 1980, as a result of any statute
22 enacted on or after January 1, 1975, or any executive order implementing any
23 statute enacted on or after January 1, 1975, which mandates a new program or
24 higher level of service of an existing program within the meaning of Section 6 of
25 Article XIII B of the California Constitution."

1 9. I am personally conversant with the foregoing facts and, if required, I could and would
2 testify to the statements made herein.
3

4 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
5 and correct and that this declaration was executed on November 14, 2005, at Commerce, California.
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7 Captain Karyn Mannis

8 CAPTAIN KARYN MANNIS
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LEROY D. BACA, SHERIFF

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754 - 2169



Declaration of Glen Dragovich
Los Angeles County Comments
Peace Officers Procedural Bill of Rights
Reconsideration Case No. 05-RL-4499-01

Glen Dragovich makes the following declaration and statement under oath:

I, Glen Dragovich, Assistant Division Director of Administrative Services Division of the Los Angeles County (County) Sheriff's Department, am responsible for recovering County costs incurred in complying with State mandated programs such as the County's Peace Officers Procedural Bill of Rights (POBAR) program.

I declare that I have reviewed the Commission on State Mandates (Commission) Statement of Decision (CSM 4499) regarding the POBAR's program as adopted on November 30, 1999.

I declare that it is my information or belief that the only funds that have been appropriated for this program have been State subventions to reimburse local agencies for their "costs mandated by the State," as defined by Government Code Section 17514.

I declare that it is my information or belief that claimants as well as the State Controller's Office could save considerable administrative POBAR claiming costs by using a "reasonable reimbursement methodology," as permitted under Government Code Section 17518.5:

- (a) *"Reasonable reimbursement methodology" means a formula for reimbursing local agency and school district costs mandated by the State that meets the following conditions:*
 - (1) *The total amount to be reimbursed statewide is equivalent to the total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.*
 - (2) *For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.*

A Tradition of Service

-2-

(d) *Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the State, rather than detailed documentation of actual local costs. In cases where local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and State reimbursements over a period of greater than one fiscal year, but not exceeding ten years.*

(e) *A reasonable reimbursement methodology may be developed by any of the following:*

- (1) *The Department of Finance*
- (2) *The Controller*
- (3) *An affected State agency*
- (4) *A claimant*
- (5) *An interested party*

I declare that it is my information or belief that POBAR's costs can be derived under an reimbursement "reasonable reimbursement methodology," which takes into consideration expenses in law enforcement agencies.

I declare that it is my information and belief that reimbursable costs under the POBAR's program are well in excess of \$1,000 per annum for the County of Los Angeles, the amount of cost that must be incurred to file a claim in accordance with Government Code Section 564(a).

State money, I declare that I am informed and believe that the County's State mandated services and resulting costs in implementing the POBAR's program require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State," as defined in Government Code Section 564(a).

"Costs mandated by the State" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or a higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

-3-

I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information or belief, and as to those matters I believe them to be true.

11/10/05 Monterey Park, CA
Date and Place


Signature



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
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J. TYLER McCAULEY
AUDITOR-CONTROLLER

**Los Angeles County's Reconsideration
Peace Officers Procedural Bill of Right's Decision
Government Code Section 3313, as added by Statutes 2005, Chapter 72**

Declaration of Leonard Kaye

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, SB 90 Coordinator, in and for the County of Los Angeles, am responsible for filing reconsiderations, test claims, reviews of State agency comments, Commission staff analysis, and for proposing parameters and guidelines (P's& G's) and amendments thereto, all for the complete and timely recovery of costs mandated by the State. Specifically, I have prepared the subject "Reconsideration of Peace Officers Procedural Bill of Right's Decision" pursuant to Government Code Section 3313, as added by Statutes 2005, Chapter 72.

I declare that it is my information and belief that the County's State mandated duties and costs in implementing the subject law require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:


" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I declare that I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

"To Enrich Lives Through Effective and Caring Service"

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

11/16/05, Los Angeles, CA
Date and Place

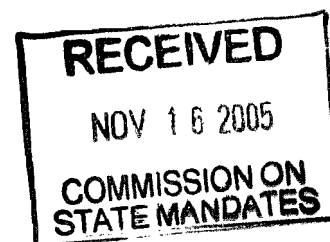

Signature



J. TYLER McCAULEY
AUDITOR-CONTROLLER

COUNTY OF LOS ANGELES DEPARTMENT OF AUDITOR-CONTROLLER

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DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

Olga Murga states: I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 603 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 16th day of November 2005, I served the attached:

Documents: Los Angeles County's Reconsideration of the Peace Officer Procedural Bill of Rights Decision including a 1 page letter of J. Tyler McCauley dated 11/16/05, an 11 page narrative, a 3 page declaration of Captain Karyn Mannis, a 3 page declaration of Glen Drugovich, a 2 page declaration of Leonard Kaye, now pending before the Commission on State Mandates.

[X] By transmitting to Commission's e-mail csminfo@esm.ca.gov a PDF copy of the above documents. By mailing original signed above documents to Commission's address: Ms. Paula Higashi, Executive Director; Commission on State Mandates; 900 Ninth Street, Suite 300; Sacramento, California 95814; and by Faxing above documents to Commission at [916] 445-0278.

That I am readily familiar with the business practice of the Los Angeles County for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence would be deposited within the United States Postal Service that same day in the ordinary course of business. Said service was made at a place where there is delivery service by the United States mail and that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of November, 2005, at Los Angeles, California.

Post-It™ brand fax transmittal memo 7671		# of pages	21
To	Paula Higashi		
Co.	C&M		
Dept.	LA		
Fax #	916-445-0278		
From	Leonard Kaye		
Co.	LA		
Phone #	913-974-8564		
Fax #			

Olga Murga